

HB1675



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1675

by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

New Act
10 ILCS 5/1-25 new

Creates the Uniform Military and Overseas Voters Act, promulgated by the National Conference of Commissioners on Uniform State Laws. Amends the Election Code to make it subject to the Act. Effective immediately.

LRB097 06811 HLH 46902 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. SHORT TITLE. This Act may be cited as the
5 Uniform Military and Overseas Voters Act.

6 Section 2. DEFINITIONS. In this Act:

7 (1) "Covered voter" means:

8 (A) a uniformed-service voter or an overseas voter who
9 is registered to vote in this state;

10 (B) a uniformed-service voter defined in paragraph
11 (9)(A) whose voting residence is in this state and who
12 otherwise satisfies this state's voter eligibility
13 requirements;

14 (C) an overseas voter who, before leaving the United
15 States, was last eligible to vote in this state and, except
16 for a state residency requirement, otherwise satisfies
17 this state's voter eligibility requirements;

18 (D) an overseas voter who, before leaving the United
19 States, would have been last eligible to vote in this state
20 had the voter then been of voting age and, except for a
21 state residency requirement, otherwise satisfies this
22 state's voter eligibility requirements; or

23 (E) an overseas voter who was born outside the United

1 States, is not described in subparagraph (C) or (D), and,
2 except for a state residency requirement, otherwise
3 satisfies this state's voter eligibility requirements, if:

4 (i) the last place where a parent or legal guardian
5 of the voter was, or under this Act would have been,
6 eligible to vote before leaving the United States is
7 within this state; and

8 (ii) the voter has not previously registered to
9 vote in any other state.

10 (2) "Dependent" means an individual recognized as a
11 dependent by a uniformed service.

12 (3) "Federal postcard application" means the application
13 prescribed under Section 101(b)(2) of the Uniformed and
14 Overseas Citizens Absentee Voting Act, 42 U.S.C. Section
15 1973ff(b)(2).

16 (4) "Federal write-in absentee ballot" means the ballot
17 described in Section 103 of the Uniformed and Overseas Citizens
18 Absentee Voting Act, 42 U.S.C. Section 1973ff-2.

19 (5) "Military-overseas ballot" means:

20 (A) a federal write-in absentee ballot;

21 (B) a ballot specifically prepared or distributed for
22 use by a covered voter in accordance with this Act; or

23 (C) a ballot cast by a covered voter in accordance with
24 this Act.

25 (6) "Overseas voter" means a United States citizen who is
26 outside the United States.

1 (7) "State" means a state of the United States, the
2 District of Columbia, Puerto Rico, the United States Virgin
3 Islands, or any territory or insular possession subject to the
4 jurisdiction of the United States.

5 (8) "Uniformed service" means:

6 (A) active and reserve components of the Army, Navy,
7 Air Force, Marine Corps, or Coast Guard of the United
8 States;

9 (B) the Merchant Marine, the commissioned corps of the
10 Public Health Service, or the commissioned corps of the
11 National Oceanic and Atmospheric Administration of the
12 United States; or

13 (C) the National Guard and state militia.

14 (9) "Uniformed-service voter" means an individual who is
15 qualified to vote and is:

16 (A) a member of the active or reserve components of the
17 Army, Navy, Air Force, Marine Corps, or Coast Guard of the
18 United States who is on active duty;

19 (B) a member of the Merchant Marine, the commissioned
20 corps of the Public Health Service, or the commissioned
21 corps of the National Oceanic and Atmospheric
22 Administration of the United States;

23 (C) a member on activated status of the National Guard
24 or state militia; or

25 (D) a spouse or dependent of a member referred to in
26 this paragraph.

1 (10) "United States", used in the territorial sense, means
2 the several states, the District of Columbia, Puerto Rico, the
3 United States Virgin Islands, and any territory or insular
4 possession subject to the jurisdiction of the United States.

5 Section 3. ELECTIONS COVERED. The voting procedures in this
6 Act apply to:

7 (1) a general, special, or primary election for federal
8 office;

9 (2) a general, special, recall, or primary election for
10 statewide or state legislative office or state ballot measure;
11 and

12 (3) a general, consolidated, special, or primary election
13 for local government office or local ballot measure conducted
14 under state law for which absentee voting or voting by mail is
15 available for other voters.

16 Section 4. ROLE OF STATE BOARD OF ELECTIONS.

17 (a) The State Board of Elections is the state entity
18 responsible for implementing this Act and the state's
19 responsibilities under the Uniformed and Overseas Citizens
20 Absentee Voting Act, 42 U.S.C. Section 1973ff et seq.

21 (b) The State Board of Elections shall make available to
22 covered voters information regarding voter registration
23 procedures for covered voters and procedures for casting
24 military-overseas ballots. The State Board of Elections may

1 delegate the responsibility under this subsection only to the
2 state office designated in compliance with Section 102(b)(1) of
3 the Uniformed and Overseas Citizens Absentee Voting Act, 42
4 U.S.C. Section 1973ff-1(b)(1).

5 (c) The State Board of Elections shall establish an
6 electronic transmission system through which a covered voter
7 may apply for and receive voter registration materials,
8 military-overseas ballots, and other information under this
9 Act.

10 (d) The State Board of Elections shall:

11 (1) develop standardized absentee-voting materials,
12 including privacy and transmission envelopes and their
13 electronic equivalents, authentication materials, and
14 voting instructions, to be used with the military-overseas
15 ballot of a voter authorized to vote in any jurisdiction in
16 this state; and

17 (2) to the extent reasonably possible, coordinate with
18 other states to carry out this subsection.

19 (e) The State Board of Elections shall prescribe the form
20 and content of a declaration for use by a covered voter to
21 swear or affirm specific representations pertaining to the
22 voter's identity, eligibility to vote, status as a covered
23 voter, and timely and proper completion of an overseas-military
24 ballot. The declaration must be based on the declaration
25 prescribed to accompany a federal write-in absentee ballot, as
26 modified to be consistent with this Act. The State Board of

1 Elections shall ensure that a form for the execution of the
2 declaration, including an indication of the date of execution
3 of the declaration, is a prominent part of all balloting
4 materials for which the declaration is required.

5 Section 5. OVERSEAS VOTER'S REGISTRATION ADDRESS. In
6 registering to vote, an overseas voter who is eligible to vote
7 in this state shall use and must be assigned to the voting
8 precinct or ward of the address of the last place of residence
9 of the voter in this state, or, in the case of a voter
10 described by Section 2(1)(E), the address of the last place of
11 residence in this state of the parent or legal guardian of the
12 voter. If that address is no longer a recognized residential
13 address, the voter must be assigned an address for voting
14 purposes.

15 Section 6. METHODS OF REGISTERING TO VOTE.

16 (a) To apply to register to vote, in addition to any other
17 approved method, a covered voter may use a federal postcard
18 application, or the application's electronic equivalent.

19 (b) A covered voter may use the declaration accompanying a
20 federal write-in absentee ballot to apply to register to vote
21 simultaneously with the submission of the federal write-in
22 absentee ballot, if the declaration is received within the time
23 limited under the Election Code. If the declaration is received
24 after that date, it must be treated as an application to

1 register to vote for subsequent elections.

2 (c) The State Board of Elections shall ensure that the
3 electronic transmission system described in Section 4(c) is
4 capable of accepting both a federal postcard application and
5 any other approved electronic registration application sent to
6 the appropriate election official. The voter may use the
7 electronic transmission system or any other approved method to
8 register to vote.

9 Section 7. METHODS OF APPLYING FOR MILITARY-OVERSEAS
10 BALLOT.

11 (a) A covered voter who is registered to vote in this state
12 may apply for a military-overseas ballot using either the
13 regular absentee ballot application in use in the voter's
14 jurisdiction under the Election Code or the federal postcard
15 application or the application's electronic equivalent.

16 (b) A covered voter who is not registered to vote in this
17 state may use a federal postcard application or the
18 application's electronic equivalent to apply simultaneously to
19 register to vote under Section 6 and for a military-overseas
20 ballot.

21 (c) The State Board of Elections shall ensure that the
22 electronic transmission system described in Section 4(c) is
23 capable of accepting the submission of both a federal postcard
24 application and any other approved electronic
25 military-overseas ballot application sent to the appropriate

1 election official. The voter may use the electronic
2 transmission system or any other approved method to apply for a
3 military-overseas ballot.

4 (d) A covered voter may use the declaration accompanying a
5 federal write-in absentee ballot as an application for a
6 military-overseas ballot simultaneously with the submission of
7 the federal write-in absentee ballot, if the declaration is
8 received by the appropriate election official within the time
9 limited under the Election Code as the last day for other
10 voters in this state to apply for an absentee ballot for that
11 election.

12 (e) To receive the benefits of this Act, a covered voter
13 must inform the appropriate election official that the voter is
14 a covered voter. Methods of informing the appropriate election
15 official that a voter is a covered voter include:

16 (1) the use of a federal postcard application or
17 federal write-in absentee ballot;

18 (2) the use of an overseas address on an approved voter
19 registration application or ballot application; and

20 (3) the inclusion on an approved voter registration
21 application or ballot application of other information
22 sufficient to identify the voter as a covered voter.

23 (f) This Act does not preclude a covered voter from voting
24 under Illinois law on regular absentee voting.

25 Section 8. TIMELINESS AND SCOPE OF APPLICATION FOR

1 MILITARY-OVERSEAS BALLOT. An application for a
2 military-overseas ballot is timely if received within the time
3 limited by the Election Code as the last day for other voters
4 in this state to apply for an absentee ballot for that
5 election. An application for a military-overseas ballot for a
6 primary election, whether or not timely, is effective as an
7 application for a military-overseas ballot for the general
8 election.

9 Section 9. TRANSMISSION OF UNVOTED BALLOTS.

10 (a) For an election described in Section 3 for which this
11 state has not received a waiver pursuant to Section 579 of the
12 Military and Overseas Voter Empowerment Act, 42 U.S.C.
13 1973ff-1(g) (2), not later than 45 days before the election or,
14 if the 45th day before the election is a weekend or holiday,
15 not later than the business day preceding the 45th day, the
16 election official in each jurisdiction charged with
17 distributing a ballot and balloting materials shall transmit a
18 ballot and balloting materials to all covered voters who by
19 that date submit a valid military-overseas ballot application.

20 (b) A covered voter who requests that a ballot and
21 balloting materials be sent to the voter by electronic
22 transmission may choose facsimile transmission or electronic
23 mail delivery, or, if offered by the voter's jurisdiction,
24 Internet delivery. The election official in each jurisdiction
25 charged with distributing a ballot and balloting materials

1 shall transmit the ballot and balloting materials to the voter
2 using the means of transmission chosen by the voter.

3 (c) If a ballot application from a covered voter arrives
4 after the jurisdiction begins transmitting ballots and
5 balloting materials to voters, the official charged with
6 distributing a ballot and balloting materials shall transmit
7 them to the voter not later than two business days after the
8 application arrives.

9 Section 10. TIMELY CASTING OF BALLOT. To be valid, a
10 military-overseas ballot must be received by the appropriate
11 local election official not later than the close of the polls,
12 or the voter must submit the ballot for mailing or other
13 authorized means of delivery not later than 12:01 a.m., at the
14 place where the voter completes the ballot, on the date of the
15 election.

16 Section 11. FEDERAL WRITE-IN ABSENTEE BALLOT. A covered
17 voter may use a federal write-in absentee ballot to vote for
18 all offices and ballot measures in an election described in
19 Section 3.

20 Section 12. RECEIPT OF VOTED BALLOT.

21 (a) A valid military-overseas ballot cast in accordance
22 with Section 10 must be counted if it is delivered by the end
23 of business on the business day before [the latest deadline for

1 completing the county canvass or other local tabulation used to
2 determine the final official results] to the address that the
3 appropriate state or local election office has specified.

4 (b) If, at the time of completing a military-overseas
5 ballot and balloting materials, the voter has declared under
6 penalty of perjury that the ballot was timely submitted, the
7 ballot may not be rejected on the basis that it has a late
8 postmark, an unreadable postmark, or no postmark.

9 Section 13. DECLARATION. A military-overseas ballot must
10 include or be accompanied by a declaration signed by the voter
11 that a material misstatement of fact in completing the ballot
12 may be grounds for a conviction of perjury under the laws of
13 the United States or this state.

14 Section 14. CONFIRMATION OF RECEIPT OF APPLICATION AND
15 VOTED BALLOT. The State Board of Elections, in coordination
16 with local election officials, shall implement an electronic
17 free-access system by which a covered voter may determine by
18 telephone, electronic mail, or Internet whether:

19 (1) the voter's federal postcard application or other
20 registration or military-overseas ballot application has been
21 received and accepted; and

22 (2) the voter's military-overseas ballot has been received
23 and the current status of the ballot.

1 Section 15. USE OF VOTER'S ELECTRONIC-MAIL ADDRESS.

2 (a) The local election official shall request an
3 electronic-mail address from each covered voter who registers
4 to vote after the effective date of this Act. An
5 electronic-mail address provided by a covered voter may not be
6 made available to the public or any individual or organization
7 other than an authorized agent of the local election official
8 and is exempt from disclosure under the public records laws of
9 this state. The address may be used only for official
10 communication with the voter about the voting process,
11 including transmitting military-overseas ballots and election
12 materials if the voter has requested electronic transmission,
13 and verifying the voter's mailing address and physical
14 location. The request for an electronic-mail address must
15 describe the purposes for which the electronic-mail address may
16 be used and include a statement that any other use or
17 disclosure of the electronic-mail address is prohibited.

18 (b) A covered voter who provides an electronic-mail address
19 may request that the voter's application for a
20 military-overseas ballot be considered a standing request for
21 electronic delivery of a ballot for all elections held through
22 December 31 of the year following the calendar year of the date
23 of the application or another shorter period the voter
24 specifies. An election official shall provide a
25 military-overseas ballot to a voter who makes a standing
26 request for each election to which the request is applicable. A

1 covered voter who is entitled to receive a military-overseas
2 ballot for a primary election under this subsection is entitled
3 to receive a military-overseas ballot for the general election.

4 Section 16. PUBLICATION OF ELECTION NOTICE.

5 (a) At least 100 days before a regularly scheduled
6 election and as soon as practicable before an election not
7 regularly scheduled, an official in each jurisdiction charged
8 with printing and distributing ballots and balloting material
9 shall prepare an election notice for that jurisdiction, to be
10 used in conjunction with a federal write-in absentee ballot.
11 The election notice must contain a list of all of the ballot
12 measures and federal, state, and local offices that as of that
13 date the official expects to be on the ballot on the date of
14 the election. The notice also must contain specific
15 instructions for how a voter is to indicate on the federal
16 write-in absentee ballot the voter's choice for each office to
17 be filled and for each ballot measure to be contested.

18 (b) A covered voter may request a copy of an election
19 notice. The official charged with preparing the election notice
20 shall send the notice to the voter by facsimile, electronic
21 mail, or regular mail, as the voter requests.

22 (c) As soon as ballots are certified, and not later than
23 the date ballots are required to be transmitted to voters under
24 the Election Code, the official charged with preparing the
25 election notice under subsection (a) shall update the notice

1 with the certified candidates for each office and ballot
2 measure questions and make the updated notice publicly
3 available.

4 (d) A local election jurisdiction that maintains an
5 Internet website shall make the election notice prepared under
6 subsection (a) and updated versions of the election notice
7 regularly available on the website.

8 Section 17. PROHIBITION OF NONSUBSTANTIVE REQUIREMENTS.

9 (a) If a voter's mistake or omission in the completion of
10 a document under this Act does not prevent determining whether
11 a covered voter is eligible to vote, the mistake or omission
12 does not invalidate the document. Failure to satisfy a
13 nonsubstantive requirement, such as using paper or envelopes of
14 a specified size or weight, does not invalidate a document
15 submitted under this Act. In a write-in ballot authorized by
16 this Act or in a vote for a write-in candidate on a regular
17 ballot, if the intention of the voter is discernable under this
18 state's uniform definition of what constitutes a vote, an
19 abbreviation, misspelling, or other minor variation in the form
20 of the name of a candidate or a political party must be
21 accepted as a valid vote.

22 (b) Notarization is not required for the execution of a
23 document under this Act. An authentication, other than the
24 declaration specified in Section 13 or the declaration on the
25 federal postcard application and federal write-in absentee

1 ballot, is not required for execution of a document under this
2 Act. The declaration and any information in the declaration may
3 be compared with information on file to ascertain the validity
4 of the document.

5 Section 18. EQUITABLE RELIEF. A court may issue an
6 injunction or grant other equitable relief appropriate to
7 ensure substantial compliance with, or enforce, this Act on
8 application by:

- 9 (1) a covered voter alleging a grievance under this Act; or
10 (2) an election official in this state.

11 Section 19. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In
12 applying and construing this uniform act, consideration must be
13 given to the need to promote uniformity of the law with respect
14 to its subject matter among states that enact it.

15 Section 20. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
16 NATIONAL COMMERCE ACT. This Act modifies, limits, and
17 supersedes the Electronic Signatures in Global and National
18 Commerce Act, 15 U.S.C. Section 7001 et seq., but does not
19 modify, limit, or supersede Section 101(c) of that act, 15
20 U.S.C. Section 7001(c), or authorize electronic delivery of any
21 of the notices described in Section 103(b) of that act, 15
22 U.S.C. Section 7003(b).

1 Section 95. The Election Code is amended by adding Section
2 1-25 as follows:

3 (10 ILCS 5/1-25 new)

4 Sec. 1-25. Uniform Military and Overseas Voters Act. This
5 Code is subject to the Uniform Military and Overseas Voters
6 Act. In the case of a conflict between this Code and that Act,
7 that Act controls.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.